

Message Text

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TO AMEMBASSY QUITO NIACT IMMEDIATE

C O N F I D E N T I A L STATE 241360

LIMDIS

E.O. 11652:GDS

TAGS: ENRG, PFOR, EC

SUBJECT:GULF DISPUTE

REF: (A) QUITO 6971; (B) QUITO 6972

1. LUMPKIN AND LUCAS TOLD US THIS AFTERNOON THAT GULF'S REACTION TO THE GOE MEMORANDA CONVEYED REFTEL (A) IS AS FOLLOWS. FIRST, THE PROPOSAL ON PURCHASE OF GULF ASSETS IN PRINCIPLE IS ACCEPTABLE BUT MATERIALLY LACKING IN SPECIFICITY. WHEN WE ASKED WHAT SPECIFICITY IS REQUIRED, THEY SAID THAT WHICH IS SET OUT IN THE DRAFT ASSURANCES PREPARED BY GULF AND TRANSMITTED BY AMBASSADOR TO GOE. WE SUGGESTED THAT GULF TAKE THE GOE PROPOSAL AS THE BASIS OF DRAFTING AND, ADHERING TO IT AS MUCH AS POSSIBLE, INSERT SUCH FURTHER DETAIL AS THEY REQUIRE. GULF WILL DO THIS BUT DOES NOT WISH TO PUT ANY NEW LANGUAGE TO THE GOE UNTIL YOU HAVE A REPLY FROM THE GOE. THE PARTICULAR DEFICIENCY THEY FIND IN THE GOE PROPOSAL ON BUYOUT RELATES TO AUDITING.

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2. AS TO GULF'S REACTION TO THE GOE'S DEMAND FOR GUARANTEES, GULF'S VIEW REMAINS NEGATIVE. IN RESPONSE TO INQUIRY AS TO WHETHER THERE IS ANY GIVE BY GULF IN RESPECT TO THE \$27 MILLION, THE ANSWER WAS NO. GULF HAS PREPARED THE FOLLOWING STATEMENT OF WHAT IT IS PREPARED TO PAY AND

GUARANTEE. GULF SUGGESTS THAT YOU HAVE DISCRETION TO PASS IT TO THE GOE (AND WE CONCUR).

3. GULF PAYMENTS

A. WITH RESPECT TO OUTSTANDING UNPAID DEPOSITS CORRESPONDING TO CARGOES OF ORIENTE CRUDE OIL GULF REPRESENTS THAT:

1. THE TOTAL SUM IS \$52,923,382.26 CORRESPONDING TO LIFTINGS MADE DURING THE PERIOD COMMENCING ON 22 FEBRUARY 1976 AND ENDING UPON 15 AUGUST 1976.

2. THE PORTION OF THE SUM MENTIONED IN THE PRECEDING PARAGRAPH (1) WHICH SHOULD BE RETURNED TO GULF IS \$7,051,956.93.

3. THE TOTAL SUM PAID WITH RESPECT TO LIFTINGS OF CARGOES OF ORIENTE CRUDE OIL SOLD TO THIRD PARTY BUYERS DURING THE PERIOD COMMENCING ON 25 AUGUST 1976 AND ENDING ON 30 SEPTEMBER 1976 IS \$27,111,044.10.

4. THE PORTION OF THE SUM MENTIONED IN PARAGRAPH (3) WHICH HAS BEEN RETURNED TO GULF IS \$3,739,412.25.

B. GULF WILL DEPOSIT TO THE AGENT BANK OF THE CENTRAL BANK IN ECUADOR THE SUM OF \$25,812,338.16 ON 1 OCTOBER 1976. THIS DEPOSIT IS MADE UPON THE UNDERSTANDING THAT THE CENTRAL BANK OF ECUADOR WILL RETURN TO GULF, AT THE TIME OF SAID DEPOSIT, THE SUM OF \$3,312,544.68 AND THE CENTRAL BANK WILL CREDIT THE SUM OF \$27,111,044.10 SO AS TO SATISFY THE UNPAID PORTION OF THE SUM MENTIONED IN PARAGRAPH (1) ABOVE AND TO SATISFY THE REQUIREMENTS OF MONETARY BOARD REGULATION NO. 814 WITH RESPECT TO CONFIDENTIAL

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THAT SAME SUM BUT WITHOUT OBLIGATION TO RETURN TO GULF THE SUM OF \$3,739,412.25 MENTIONED IN PARA (4), WHICH LATTER SUM GULF ACKNOWLEDGES HAVING ALREADY RECEIVED.

C. GULF WILL MAKE DEPOSITS, PURSUANT TO EXISTING MONETARY BOARD REGULATION NO. 814 AS THEY BECOME DUE, DURING THE PERIOD THAT NEGOTIATIONS ARE IN PROGRESS

ON THE UNDERSTANDING THAT THE GOE PROCEEDS TO COMPLY OPPORTUNELY WITH ITS COMMITMENT TO PURCHASE GULF RIGHTS, OBLIGATIONS AND PROPERTY IN ACCORDANCE WITH THE TERMS AND CONDITIONS SET FORTH IN THE LETTER OF ASSURANCES GIVEN BY THE GOE TO THE GOVERNMENT OF THE UNITED STATES. FURTHERMORE AT THE TIME FINAL DOCUMENTS ARE EXECUTED WHICH TRANSFER GULF INTERESTS TO THE GOE GULF WOULD BE

WILLING TO UNDERTAKE, WITH RESPECT TO THEN UNPAID OBLIGATIONS OF GULF, TO GIVE ASSURANCES NOT INFERIOR TO THOSE GIVEN BY THE GOE WITH RESPECT TO ITS OBLIGATIONS TO GULF EITHER IN THE FORM OF A SEPARATE DOCUMENT OR AS PART OF THE DOCUMENTATION FOR THE TRANSFER OF GULF RIGHTS, OBLIGATIONS AND PROPERTIES.

4. WE QUERIED LUCAS ON POVEDA'S CONTENTION THAT THE 120-DAY, UNGUARANTEED CREDIT WAS A FAVOR THE GOE HAD CONCEDED TO GULF ONLY RECENTLY AND WAS NOT COVERED BY THEIR CONTRACT. LUCAS REPLIED THAT, WHILE THE 120-DAY CREDIT IS NOT PART OF THE CONTRACT, IT IS A PROVISION OF MONETARY BOARD REGULATION 814, SECTION 5, FOR WHICH ALL OIL COMPANIES OPERATING IN ECUADOR ARE ELIGIBLE. IT IS NOT RECENT AND NOT A SPECIAL FAVOR TO GULF; INDEED, TEXACO LATELY HAS BEEN TAKING ADVANTAGE OF IT.

5. RE REFTEL (B), PARA. 1(A), PLEASE BEAR IN MIND THAT WE STUDIOUSLY HAVE NOT PRESSED GULF TO PAY THE OVERDUE DEPOSITS IN CIRCUMSTANCES WHERE THERE IS REASON TO BELIEVE THAT THE GOE IS IN MATERIAL ANTERIOR BREACH OF ITS OBLIGATIONS TO GULF. RE PARA. 2 OF REFTEL (B), WHILE WE CAN APPRECIATE WHY THE GOE PRESSES GULF FOR GUARANTEES, WE CAN EQUALLY APPRECIATE WHY GULF WOULD REQUIRE GUARANTEES OF THE GOE, OR PREFER THAT THERE BE NO GUARANTEES. AT ANY
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RATE, AT THIS JUNCTURE WE SEE NO GROUND FOR HOPING THAT GULF WILL IN FACT BE PREPARED TO GIVE THE GOE GUARANTEES AND ACCORDINGLY SUGGEST THAT YOU FIRMLY MAINTAIN THE STANCE TAKEN IN REFTEL (B), PARA. 1(B) AND (C).

6. THE SOLE ELEMENT OF COMPROMISE WE NOW SEE IS A "GUARANTEE" OR ASSURANCE BY GULF TO THE USG THAT IT WILL IN FACT MAKE ALL PAYMENTS TO THE GOE AS THEY BECOME DUE PROVIDED THAT THE GOE MEETS ITS OBLIGATIONS TO GULF. BUT OF COURSE THE USG COULD NOT GUARANTEE GULF'S PERFORMANCE TO THE GOE.

7. RE GULF STATEMENT IN PARA 3 ABOVE, WE ARE STRUCK BY LAST SENTENCE BEGINNING "FURTHERMORE AT THE TIME ..." WE APPREHEND THIS MAY GRATE GOE SENSIBILITIES. BUT IF YOU

DECIDE TO GIVE GOE GULF'S STATEMENT ON PAYMENTS, ALL OF IT
WOULD HAVE TO BE TRANSMITTED. OUR INCLINATION WOULD BE TO
HOLD THIS GULF STATEMENT AT LEAST UNTIL YOU RECEIVE GOE'S
REPLY ON GULF'S PROPOSED ASSURANCES OF BUYOUT OF GOE. IF
YOU AGREE, PLEASE SEND US MEANTIME YOUR SUGGESTED REVISIONS
OF THIS STATEMENT. ROBINSON

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